

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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CHRISTINE MARIE REEVES,

Plaintiff,

v.

1:20-cv-0987 (BKS/DJS)

THE DEPARTMENT OF CHILDREN YOUTH  
AND FAMILIES,

Defendant.

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**Appearances:**

*Plaintiff, pro se*  
Christine Marie Reeves  
Delmar, New York

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff *pro se* Christine Marie Reeves commenced this action in the Western District of New York on August 18, 2020, together with an “emergency motion for immediate return of minor child” and a motion to proceed in forma pauperis (“IFP”). (Dkt. Nos. 1-3). Western District of New York Chief United States District Court Judge Frank P. Geraci, Jr. granted Plaintiff’s motion to proceed IFP and transferred Plaintiff’s action to this Court. (Dkt. No. 7). This matter was assigned to United States Magistrate Judge Daniel J. Stewart who, on September 4, 2020, issued a Report-Recommendation recommending that Plaintiff’s complaint be dismissed as to all claims seeking custody of her minor child because this Court lacks subject matter jurisdiction of any such claim, but that Plaintiff be granted leave to replead any additional claims she may be intending to assert in this action. (Dkt. No. 9). Magistrate Judge Stewart also

recommended that Plaintiff's emergency motion be denied as moot. (*Id.*). Magistrate Judge Stewart advised Plaintiff that under 28 U.S.C. § 636(b)(1), she had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.*, at 9). No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 229 (N.D.N.Y. 2012) (citing Fed. R. Civ. P. 72(b), Advisory Committee Notes to 1983 amendment). Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation.<sup>1</sup>

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 9) is **ADOPTED**; and it is further

**ORDERED** that Plaintiff's Complaint is **DISMISSED without prejudice** for lack of subject matter jurisdiction, **and without leave to amend as to any claim seeking custody of her minor child**; and it is further

**ORDERED** that Plaintiff be granted leave to replead any claim she may be intending to assert in this action that is not seeking custody of her minor child; and it is further

**ORDERED** that Plaintiff may file an amended complaint within thirty (30) days from the date of this Order; and it is further

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<sup>1</sup> The Court notes that while the Report-Recommendation recommended dismissal of the child custody claim with prejudice, a dismissal for lack of subject matter jurisdiction must be without prejudice. *Katz v. Donna Karan Co.*, 872 F.3d 114, 116 (2d Cir. 2017).

**ORDERED** that if Plaintiff does not file an amended complaint within thirty (30) days from the date of this Order, or request an extension of time to do so, the Clerk is directed to close this case without further Order of the Court; and it is further

**ORDERED** that Plaintiff's Emergency Motion (Dkt. No. 2) is **DENIED** as moot; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon Plaintiff in accordance with the Local Rules.

**IT IS SO ORDERED.**

**Dated: October 5, 2020**

  
Brenda K. Sannes  
U.S. District Judge